

AO 243 (Rev. 2/95)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District Middle District of Alabama
Name of Movant Timothy Williams		Prisoner No. 11778-002
Place of Confinement FCI-Oakdale, P.O. Box 5000, Oakdale, LA 71463-5000		Case No. 2:05-Cr-216-MEF

2:07CV742-MEF

UNITED STATES OF AMERICA V. **Timothy Williams**
(name under which convicted)

MOTION

1. Name and location of court which entered the judgment of conviction under attack
UNITED STATES DISTRICT COURT - Middle District of Alabama - 1 Church St. Suite B-100, Montgomery, AL 36104
2. Date of judgment of conviction **9/8/2005**
3. Length of sentence **68 months**
4. Nature of offense involved (all counts)
21 U.S.C. Section 841 (A)(1) Possession with intent to distribute marijuana. Title 18 U.S. C. Section 924 (C) (1)(A)(i) Use of a firearm in relation to a drug trafficking
5. What was your plea? (Check one)

(a) Not guilty	<input type="checkbox"/>
(b) Guilty	<input checked="" type="checkbox"/>
(c) Nolo contendere	<input type="checkbox"/>

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:
6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury	<input type="checkbox"/>
(b) Judge only	<input type="checkbox"/>
7. Did you testify at the trial?
Yes ☐ No ☐
8. Did you appeal from the judgment of conviction?
Yes ☐ No ☒

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9. If you did appeal, answer the following:

(a) Name of court

(b) Result

(c) Date of result

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court

(2) Nature of proceeding

(3) Grounds raised

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result

(6) Date of result

(b) As to any second petition, application or motion give the same information:

(1) Name of court

(2) Name of proceeding

(3) Grounds raised

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(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result

(6) Date of result

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒(2) Second petition, etc. Yes ☐ No ☒(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:
Attorney was not effective to advise me that I could appeal. I was not familiar with the law. Counsel failed to perform to their standard capacity.

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one:

Ineffective assistance of counsel. Constitutional and Congressional issues.

Supporting FACTS (state *briefly* without citing cases or law):

Counsel's failure to question the District Court of the United States with respect to territorial and subject matter jurisdiction, caused the Movant to be wrongfully incarcerated by a District Court that lacks Constitutional and Congressional authority and territorial jurisdiction. Such a defense initiated by counsel would have given the Movant an alibi defense and no incarceration. See attached: Memorandum of Laws, Rules and Facts.

B. Ground two:

Ineffective assistance of counsel. Legality of Title 18 and 21 U.S.C. Unlawful arrest.

Supporting FACTS (state *briefly* without citing cases or law):

Counsel's failure to question the validity of Title 18 and Title 21 of the United States Code was absolutely ineffective when in fact Title 18 and Title 21 were never enacted as positive laws. As such Titles are not the Law of the Land, they can only be effective on Government officials and their employees as well as anyone within the District of Columbia or territory and property owned by the federal government. See attached: Memorandum of Laws, Rules and Facts.

C. Ground three:

Ineffective assistance of counsel.

Supporting FACTS (state *briefly* without citing cases or law):

Counsel's failure to file a direct appeal and mostly his obligation to investigate as to federal territorial jurisdiction and subject matter jurisdiction was proper in the case, knowing that the federal government is limited to jurisdiction as per Article I, Section 8, Cl. 17 of the Constitution. Also the validity of Title 18 and 21 of the United States Code.

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D. Ground four:

Supporting FACTS (state *briefly* without citing cases or law):

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:
Counsel failure to present the above issues mentioned was a violation of my Sixth Amendment rights of our Constitution.
14. Do you have any petition or appeal now pending in any court as to the judgment under attack?
Yes ☐ No ☒
15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:
- (a) At preliminary hearing
 - (b) At arraignment and plea
 - (c) At trial
N/A
 - (d) At sentencing
Tiffany McCord - 505 South Perry Street, Montgomery, Alabama 36104

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(e) On appeal
None

(f) In any post-conviction proceeding
N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding
N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future:

(b) Give date and length of the above sentence:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐


Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

8/10/2007

Date



Signature of Movant

District Court of the United States
Middle District of Alabama
(Captioned pursuant to Mookini v. United States, 303 U.S. 201)
(Article III court of law)

2007 AUG 21 A 9:23

United States of America

v

Timothy Willimas,
movant

DEBRA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Docket No. 02-05CR216-MEF

/

Motion under 28 U.S.C. § 2255 to vacate, set
aside, or correct sentence by a private man
in Federal custody.

Memorandum of Laws, Rules and Facts

COMES NOW, Timothy Williams, movant, a private citizen of the United States of America herein pro per (in his proper person not pro se (on behalf of)), brings this motion to continue a criminal case pursuant to Title 28 U.S.C. § 2255 in order to vacate, set aside, or correct sentence.

Movant claims that CJA's attorneys Jennifer Hart, Esq., and Christine Freedman, Esq., were both ineffective for failure to perform to their standard capacity, both failed to raise the facts that the District Court of the United States for the Middle District of Alabama was lacking Constitutional authority, Congressional authority and Territorial jurisdiction, along with an alibi defense and the fact that Titles 18 and 21 of the United States Code were never enacted as positive laws, and therefore not laws at large. As the facts that follow:

STATEMENT OF THE CASE

From at least 1937, a fraud of major proportions has been perpetrated upon the American citizens by that branch of government which is the very pulse of our country, the Federal judiciary.

The United States District Courts in the 94 judicial districts in the continental states of the union have been arresting, prosecuting and imprisoning citizens and aliens – without Constitutional or Congressional authority.

The Constitution of the United States authorizes punishment in only three instances: counterfeiting¹; piracies and felonies committed on the high seas² and treason³. Congress authorized the United States District Courts to prosecute all crimes and offenses against the United States “cognizable under the authority of the United States committed within their respective districts or upon the high seas; where no other punishment...than a fine not exceeding one hundred dollars, or a term of imprisonment not exceeding **six months** is to be inflicted.”⁴ More than 2 million Persons have been imprisoned by judges of the United States District Courts for periods in excess of six months.

STATEMENT OF FACTS

We the People gave Congress power “to exercise exclusive Legislation [jurisdiction] in all Cases whatsoever, over such District (not exceeding ten Miles square)...and to exercise like authority [jurisdiction] over all **places purchased** by the consent of the Legislature of the State in which the same shall be...”⁵; and to “make all Laws which shall be necessary and proper...”⁶ to regulate and govern those **places purchased**.⁷

The United States District Courts – without authority to seat a grand or petit jury⁸ – routinely issue indictments which declare the location of the “offense” to have been committed (e.g. “in the Middle District of Alabama”) but fail to identify the “place” within the district. The “district” is not a “**place purchased**.” Therefore, in order for the United States District Court to enjoy venue, the place where the offense is allegedly committed must be proven by the prosecutor to be “within the jurisdiction of the United States” (a **place purchased** by the Federal government).

It is a fundamental principle of law that there are two necessary elements to a crime or offense: where (place) the offense is committed and what offense is committed.⁹ Both elements must be proven to establish federal venue and subject matter jurisdiction in order to obtain and sustain a conviction. Over 98% of all indictments issuing from the United States District Courts are for offenses committed on state, county, city or private property – not federally owned property – and are therefore fraudulent. Ninety-eight percent (98%) of all arrests made by agents of the United States occur within a union state, county, city or private property...wherein Federal criminal law does not apply.¹⁰ “And where there is no law there is no transgression.” *Romans* 4:15b (*NIV*)

That the fraud has continued unchecked for almost 70 years is a shameful indictment against every prosecuting and defense attorney and judge who ever set foot in the United States District Court to participate in a “criminal proceeding.”¹¹ The perpetrators of the fraud are the United

¹ U.S. Constitution, Art. I § 8, Cl. 6

² U.S. Constitution, Art. I § 8, Cl. 10

³ U.S. Constitution, Art. III § 3, Cl. 2

⁴ Judiciary Act of 1789, I Stat. 9

⁵ U.S. Constitution, Art. I § 8, Cl. 17; District of Columbia and “places purchased” within district in a union state

⁶ U.S. Constitution, Art. I § 8, Cl. 18

⁷ U.S. Constitution, Art. IV § 3

⁸ 28 U.S.C. § 1869(f); United States District Court is not a “district court” established by chapter 5 of Title 28

⁹ “It is the locus of the offense which determines jurisdiction, not the offense committed.” *People v. Godfrey* (Cir. 1880)

¹⁰ F.R.Cr.P. Rule 4(c)(2); 18 U.S.C. §§ 5, 7(3)

¹¹ F.R.Cr.P. Rule 54(b)(1)-(4)

States Attorneys. The conspirators are federal judges and defense attorneys. Those aiding and abetting are the U.S. Marshals and other federal arresting agents. The arrests and prosecutions are violation of citizens' Constitutional rights under the Fourth and Fifth Amendments. The Attorney General of the United States is responsible to prosecute government officers and employees¹² for civil rights violations.¹³ Congress is responsible to stop the fraud. We the People are responsible to hold Congress accountable.

ARGUMENT

"I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man." Thomas Jefferson

Article I, Section 8, Clauses 1-16 of the Constitution of the United States enumerate the powers granted to Congress by We the People.

Clause 17 defines the boundaries wherein these powers may be exercised; in the District of Columbia and places purchased from the states by the government.

"To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square)¹⁴ as may, by Cession of particular States and the Acceptance of Congress become the Seat of the Government of the United States and to exercise like Authority over all **Places purchased** by the Consent of the Legislature of the State in which the Same shall be for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings: - and

To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." (Emphasis added). *Article I, Section 8, Clauses 17 and 18 of the Constitution of the United States.*

These boundaries – District of Columbia and **Places purchased** – where "Legislation" and "like Authority" (jurisdiction) may be exercised by the government, in America, have never been changed. All Acts of Congress (federal statutes) are applicable, operate and are enforceable only within said boundaries, as set forth in Article IV, Section 3 of the Constitution. Article IV, Section 3 grants powers to Congress to make Rules and Regulations for the administration of those places purchased or otherwise acquired (territory).

"The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the **Territory** or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular **State**." (Emphasis added). *Article IV, Section 3, of the Constitution of the United States.*

¹² 28 U.S.C. §§ 526, 535

¹³ 18 U.S.C. §§ 4, 241, 242

¹⁴ Patterned from Ezekiel's vision of the seat of the final government to rule the Earth, one of righteousness, led by the Righteous King Jesus; and all in authority will uphold His laws. Ezekiel 48:15-18.

The Supreme Court in *O'Donoghue v. United States*, clarified the word "territory" as it is used in Article IV, Section 3, distinguishing between property owned by the government and a governmental subdivision.

"In this connection, the peculiar language of the territorial clause, Article IV, Section 3, Clause 2, of the Constitution, should be noted. By that clause Congress is given power 'to dispose of and make all needful Rules and Regulations respecting the territory or other Property belonging to the United States.' Literally the word 'territory' as there used, signifies property, since the language is not 'territory or property,' but 'territory or other property'. There thus arises an evident difference between the words 'the territory' and 'a territory' of the United States. The former merely designates a particular part or parts of the earth's surface – the imperially extensive **real estate** holdings of the nation; the latter is a governmental subdivision which happened to be called a 'territory' but which quite as well could have been called a 'colony' or a 'province.'" (Emphasis added) *O'Donoghue v. United States*, 289 U.S. 516, 537 (1993).

The government enjoys jurisdiction within a territory and exercises authority over territory and other property it has acquired.

The English language is difficult at times because the same word or term can have diverse meanings depending upon the context in which it is used. As the Supreme Court clarifies words, so it does terms; as is the case with the term "United States". In *Hooven & Allison Co. v. Evatt*, the Supreme Court declares the term "United States" has three meanings.

"The term 'United States' may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family nations. It may designate the **territory** over which the sovereignty of the United States extends, or it may be collective name of the states which are united by and under the Constitution." (Emphasis added) *Hooven & Allison Co. v. Evatt*, 324 U.S. 652, 672 (1945).

Congress, when writing law and faced with using a term of commonly known usage and meaning, if a different meaning is intended, is careful to define the term and it's intended meaning within the law; and according to a Supreme Court decision, if one exists. The term "United States" being clarified in 1945 by the Supreme Court in *Hooven*, as set forth above, Congress incorporated the territorial usage of the term to define the limits (places and waters) of federal jurisdiction in the Federal Criminal Code, of June 25, 1948, Title 18 United States Code (U.S.C.):

18 U.S.C. § 5 United States defined "The term 'United States' as used in this title in a **territorial** sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States except the Canal Zone." (Emphasis added); and

in the Controlled Substances Act of October 27, 1970, Title 21, U.S.C.:

21 U.S.C. § 802 as used in this subchapter: (28) The term “United States”, when used in a geographic sense, means all places and waters, continental or insular, subject to the jurisdiction of the United States.

Congress then identifies the places and waters the term “United States” is meant to include and over which federal jurisdiction extends, by essentially restating the authority granted by Article I, Section 8, Clause 17 of the Constitution.

18 U.S.C. § 7: Special maritime and **territorial** jurisdiction of the United States, defined; (3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any **place purchased** or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be for the erection of a fort, magazine, arsenal, dock-yard, or other needful building.” (Emphasis added)

In 1957, at the request of President Dwight D. Eisenhower, a committee assembled by Herbert Brownell, Jr., Attorney General of the United States, reported in the publication “Jurisdiction over Federal Areas Within the States: Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States, Part II” and supported by a plethora of evidence in the myriad of cited court cases documented the fact that Congress cannot exercise exclusive jurisdiction outside territories or land purchased, or ceded by, any of the union states.

It is abundantly clear that the Federal government only has jurisdiction over federal property, i.e., Washington, D.C., territories, insular possessions and enclaves within the states as coming under Article I, § 8, CL. 17 of the Constitution of the United States; and on all other land masses, the Federal government has no lawful legislative or judicial jurisdiction.

In order to further insure there is no confusion as to where federal laws do and do not apply, Congress authorized the Supreme Court in 1937 to make rules for the district courts in Guam, the Northern Mariana and Virgin Islands¹⁵, subject to Congressional approval; the Federal Rules of Criminal Procedure.

Congress has mandated that Title 18 U.S.C. utilize the Federal Rules of Criminal Procedure (F.R.Cr.P.) to govern procedure in all “criminal proceedings,”¹⁶ 18 U.S.C. § 3001.

F.R.Cr.P. Rule 54 “Application and Exception” defines the terms used in the rules and determines where the federal laws apply and which courts may use the rules, e.g.,

“54(c) ‘Act of Congress’ includes any Act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory¹⁷ or in a insular possession.

‘District court’ includes all district courts **named** in subdivision (a) of this rule.” (Emphasis added)

¹⁵ Federal Rules of Criminal Procedure Rule 54(a)

¹⁶ Rule 54(b)(1)-(4)

¹⁷ governmental subdivision *O’Donoghue*, id.

“54(a) Courts. These rules apply to all criminal proceedings in the United States District Courts; in the District Court of Guam; in the District Court of the Northern Mariana Islands; ...and in the District Court of the Virgin Islands; in the United States Courts of Appeals; and in the Supreme Court of the United States.”

Rule 54(c) expresses the intent of Congress that Titles 18 and 21, as well as other “acts of Congress” are only to be applied and enforced “within the jurisdiction of the United States,”: e.g., F.R.Cr.P. Rule 4, Arrest Warrant or Summons on a Complaint, which defines the territorial limits of service of a summons and execution of arrest warrant as being within a place subject to the jurisdiction of the United States.

“Rule 4(c) Execution or Service, Return (2) Location. A warrant may be executed, or a summons served **within** the jurisdiction of the United States or anywhere else a federal statute authorizes an arrest.” (Emphasis added)

Which means an arrest warrant or summons may not be executed or served without (outside) the jurisdiction of the United States or anywhere else a federal statute authorizes an arrest.

Curious as to where else F.R.Cr.P. Rule 4(c)(2) “a federal statute authorizes an arrest?” The advisory notes provide that information.

“Rule 4(c) (currently Rule 4(d)) includes three changes. First, current Rule 4(d)(2) states the traditional rules recognizing the **territorial** limits for executing warrants, Rule 4(c)(2) includes new language that reflects the recent enactment of the Military Extraterritorial Jurisdiction Act (Pub. L. No. 106-523 114 Stat. 2488) that permits arrest of certain military and Department of Defense personnel overseas. See also 14 U.S.C. § 89 (Coast Guard authority to affect arrests outside territorial limits of the United States).” (Emphasis added) Advisory Committee notes – 2002 Amendments.

Arrest without a warrant may only be made in accordance with F.R.Cr.P. Rule 4(c)(2) and only if a felony is committed in presence of arresting officer.

Even though Congress strives to avoid confusion, not so the Advisory Committee, as the version of Rule 4(d)(2) prior to the changes in 2002, was much more clear; however, the substance remains unchanged:

“Rule 4(d) Execution or Service, and Return (2) **Territorial** limits. The warrant may be executed or the summons may be served at any **place** within the jurisdiction of the United States.” F.R.Cr.P. Rule 4(d)(2) prior to 2002 (Emphasis added).

Even though F.R.Cr.P. Rule 54(a) and 18 U.S.C. § 23 and 28 U.S.C. §§ 1404(d), 1406(c) specify the courts of the United States (at the trial court level) to which the Rules apply, more information as to the inapplicability of the Rules to “criminal proceedings” prosecuted in a

United States District Court within a union state is available.¹⁸

Congress, aware it lacks Constitutional authority to extend federal law into a union state¹⁹, to state, county, city or private property and to state citizens, never intended that Title 18 or any other Acts of Congress with felony penalties attached be enforced in a union state against non-governmental personnel.²⁰

Long standing practice notwithstanding, the Federal Criminal Code²¹ is not applicable and not enforceable outside the “United States” as that term is defined in 18 U.S.C. § 5 i.e., inside a state on state, county, city or private property.

“It is obviously correct that no one acquires a vested or protected right in violation of the Constitution by long use, even when that span of time covers our entire National existence and even predates it.” *Walz v. United States*, 493 U.S. 343.

To enforce federal law within a union state violates a citizen’s rights under the Fourth and Fifth Amendments to the Constitution; right to be secure in Person, houses, papers and effects against unreasonable search and seizure; and due process. A United States District Court is not competent to issue a search or arrest warrant unless offense and arrest is to be found within federal property.

It is a fundamental principle of law that there are two elements to every offense which must be established in order to determine venue²² (court with territorial jurisdiction to try the case); where (place) the offense was allegedly committed and what offense is allegedly committed. The “what” is the statutory law prohibiting the conduct alleged, enacted by the legislature of the forum, state or federal. The “where” is the determining factor for jurisdiction of the court and forum.

The First Congress met in 1789 and passed into law the Judiciary Act, September 24, 1789, confirming this principle of law:

“It is the **place** of seizure, and not the committing of the offense, that under the Act of September 24, 1789, gives jurisdiction to the court; 4 *Cranch*, 443, 5 *Cranch*, 304; for until there has been a seizure, the forum cannot be ascertained, 9 *Cranch*, 289. (Emphasis added)

“It is the locus of the offense and not the offense committed which determines jurisdiction.”, *People v. Godfry*, (Cir. 1880) 17 Johns. 235, 243 (NY 1819)

The location of the offense determines which court can try the case; if the offense is committed on federal property, a Court of the United States has venue²³. If the United States Attorney seeks and brings an indictment – in a United States District Court located in a state – for an offense against the laws of the United States committed on a state, county, city or private

¹⁸ “It Is Written” and “No Rules”

¹⁹ “without the jurisdiction of the United States” 18 U.S.C. § 5

²⁰ 28 U.S.C. § 535

²¹ U.S.C. Titles 8, 15, 18, 21, 26, 28, 31, 41, 46 and 49

²² 28 U.S.C. §§ 1404(a), 1406(a)

²³ 18 U.S.C. § 23; 28 U.S.C. § 1404(a); 1404(d); 28 U.S.C. §§ 1406(a); 1406(c)

property, the United States District Court lacks authority, (jurisdictional and venue) and the case must be dismissed when this fact is made known. In almost all but a few rare cases, the United States District Court within a state lacks venue for several reasons:

1. The offense was not committed within the “territorial jurisdiction of the United States”;
2. The Federal criminal laws do not apply outside of the territorial jurisdiction of the United States;²⁴
3. The Federal Rules of Criminal Procedure upon which the Federal criminal laws depend²⁵ do not authorize the United States District Court to use the Rules or to effect arrest or serve summons outside of the jurisdiction of the United States.²⁶
4. The United States District Court lacks Congressional authority to inflict punishment of imprisonment for a term of more than six months:

“And be it further enacted That the district courts shall have exclusive of the courts of the several States, cognizance of all crimes and offenses that shall be cognizable under the authority of the United States, committed within their respective districts, or upon the high seas; where no other punishment than whipping, not exceeding thirty stripes, a fine not exceeding one hundred dollars, or a term of imprisonment not exceeding six months is to be inflicted.” *1 Stat. 9, First Congress, Sess. I, Chapter 20, 1789.*

5. The United States District Court can only imprison a Person pursuant to an Act of Congress, 18 U.S.C. § 4001(a): “No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.”

And Acts of Congress are applicable only within “the United States” as that term is defined in the Federal Criminal Code 18 U.S.C. § 5, 21 U.S.C. § 802(28) and evidenced in F.R.Cr.P. Rule 54(c).²⁷

As mandated by the Supreme Court in *Kokkonen*, authority of federal courts is limited by the Constitution and Congress:

“Federal courts, as courts of limited jurisdiction, possess only such authority as is conferred to them by the Constitution and Acts of Congress and this authority cannot be expanded by judicial decree.” *Kokkonen v. Guardian Life Ins.*, 511 U.S. 375, 377 (1994)

As set forth above, it is a fundamental principle of law that the location of the offense determines jurisdiction, e.g., if scene of offense is on federal property – United States has jurisdiction and may arrest and prosecute; and if scene is on private or state property the state has jurisdiction to arrest and prosecute.

²⁴ 18 U.S.C. §§ 5, 7(3), Article I, § 8, Cl. 17 U.S. Constitution

²⁵ 18 U.S.C. § 3001

²⁶ F.R.Cr.P. 4(c)(2)

²⁷ F.R.Cr.P. Rule 54(c) F.R.Cr.P. Rule 54(c) Acts of Congress locally applicable and in force in District of Columbia, Puerto Rico, territories and insular possession

The government must plead in the indictment the date, time and place of the alleged offense, e.g. the “on or about” and “In the Middle District of Alabama and elsewhere” statements not being sufficient. The Rules provide evidence that the scene of the offense is an essential element of the offense, although hidden in ambiguous terminology. If the time, date and place is not disclosed, a denial of due process exists. F.R.Cr.P. Rule 21.1 Notice of an Alibi Defense:

“(a) Government’s Request for Notice and Defendant’s Response.

(1) Government’s Request. An attorney for the government may request in writing that the defendant notify an attorney for the government of an alibi defense. The request must state the **time, date and place** of the alleged offense.

(b) Disclosing Government Witnesses

(1) Disclosure. If the defendant serves a Rule 12.1(a)(2) notice, an attorney for the government must disclose in writing to the defendant or the defendant’s attorney:

(A) the name, address, and telephone number of each witness the government is to rely on **to establish the defendants presence at the scene of the alleged offense.**” (Emphasis added)

“If the government fails to trigger the procedures and if the defendant raises an alibi defense at trial, then the government cannot claim surprise and get a continuance of the trial.” – Advisory Committee Notes, 1995 Enactment.

Since the early 1940’s the “indictments” brought by the UNITED STATES OF AMERICA in the United States District Courts have routinely not disclosed on their face the time, date and place of the offense. One possible explanation is that to do so would “tip” the government’s hand that jurisdiction is lacking and the government lacks standing; meaning either the prosecutor knew jurisdiction is lacking or that the prosecutor is negligent and doesn’t read and heed the law. In any event, the prosecution in order to sustain a conviction in any court must establish the date and time of the presence of the defendant at the scene of the offense; and the scene must be within the jurisdiction of the forum (e.g. United States).

SUMMARY

Understanding that the term and “United States” as used in the Federal Criminal Code means “Federal government” and that the authority of the Federal government is limited to specific physical geographical locations (places purchased or otherwise acquired by the United States) is what provides all Federal prisoners indicted and arrested on state, county, city or private property on the North American continent with the perfect Alibi – “I was not in the United States at the time and date of the alleged offense.” And it can be made – with understanding of the above law – under oath. And if government alleges offense was committed by accused on a place which is not government property but state, county, city or private, it is divested of jurisdiction by its own admission.

“Jurisdiction is fundamental – without it, courts cannot proceed at all in any case.” *Ruhrgas v. Marathon Oil*, 526 U.S. 574 (1999)

Further, a violation of civil rights²⁸ occurs. A civil rights violation nullifies any subsequent court actions / judgments as of the date and time of the violation, e.g., date of "arrest"; and the case may be dismissed upon the request of either party.

Violation of Federal criminal law by government officers and employees are reported to the agency head for forwarding to the Attorney General of the United States for criminal investigation. Any Person, aware of a possible violation of federal criminal law by a government officer or employee may make a written complaint or provide information to the agency head. It is prudent and proper to demand, as One of the People, that the arresting Agency produce the statutory authority or any other authority upon which they relied to effect arrest on state, county, city or private property.

CONCLUSION

Arrest by federal agent(s) on state, county, city or private property; an arrest warrant issuing upon a Criminal Complaint; information or Indictment for alleged violation of a Federal Criminal law from a United States District Court in a union state; imprisonment for a period in excess of six months; or imprisonment in a federal prison in a union state, is prohibited by the Constitution and Congress and constitutes a violation of civil rights.

REMEDY AND RELIEF

A violation of a constitutional right by the government deprives any court of jurisdiction and nullifies, voids any judgment and entitles the victim to immediate and unconditional release from custody, expunction of "criminal" record and any further relief which is deemed lawful and due.

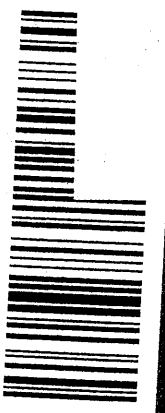
²⁸ 18 U.S.C. §§ 241, 242



Date: 8/10/2007

Timothy L. ...
FEDERAL CORRECTIONAL INSTITUTION
POST OFFICE BOX 5000
OAKDALE, LOUISIANA 71463-5000

7004 1350 0000 7009 8925



REGISTERED MAIL

CLERK OF COURT
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
1 CHURCH STREET, SUITE B-100
MONTGOMERY, ALABAMA 36104



LEGAL MAIL LEGAL MAIL LEGAL MAIL

CLOSED

**U.S. District Court
Alabama Middle District (Montgomery)
CRIMINAL DOCKET FOR CASE #: 2:05-cr-00216-MEF-SRW All Defendants
Internal Use Only**

Case title: USA v. Williams

Date Filed: 09/08/2005

Date Terminated: 08/23/2006

Assigned to: Hon. Chief Judge Mark E.
Fuller
Referred to: Honorable Susan Russ
Walker

Defendant

Timothy Williams (1)
TERMINATED: 08/23/2006

represented by **Federal Defender**
Federal Defenders
Middle District of Alabama
201 Monroe Street, Suite 1960
Montgomery, AL 36104
334-834-2099
Fax: 834-0353
Email: ECFCMALM@fd.org
TERMINATED: 07/18/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender Appointment*

Jennifer Anne Hart
Federal Defenders
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Montgomery, AL 36104
334-834-2099
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ATTORNEY TO BE NOTICED

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Middle District of Alabama

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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Designation: CJA Appointment

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334-834-2099
Fax: 834-0353
Email: christine_freeman@fd.org
TERMINATED: 07/18/2006
ATTORNEY TO BE NOTICED

Pending Counts

MARIJUANA - SELL, DISTRIBUTE,
OR DISPENSE - NMT \$250,000, [*];
NMT 5Y, B; NLT 2Y SUP REL; \$100
AF; VWPA; G-LINES

(1)

VIOLENT
CRIME/DRUGS/MACHINE GUN -
NMT \$250,000, [*]; NLT 5Y, B; NO
PROB; \$100 AF; VWPA (consec);
G-LINES

(2)

Highest Offense Level (Opening)

Felony

Disposition

68 Mos Imp consisting of 8 Mos on Ct
1 and 60 Mos on Ct 2 to be served CS
to the term on Ct 1; 3 Yrs Sup Rel
consisting of 3 Yrs on Cts 1 and 2 to
run CC; \$200 SA

68 Mos Imp consisting of 8 Mos on Ct
1 and 60 Mos on Ct 2 to be served CS
to the term on Ct 1; 3 Yrs Sup Rel
consisting of 3 Yrs on Cts 1 and 2 to
run CC; \$200 SA

Terminated Counts

UNLAWFUL TRANSPORT OF
FIREARMS, ETC. - NMT \$250,000,
[*]; NMT 10Y, B; NMT 3Y SUP REL;
\$100 AF; VWPA; G-LINES
(3)

Disposition

Dismissed by Motion of the
Government

Highest Offense Level (Terminated)

Felony

Complaints

None



Disposition

Plaintiff

USA

represented by **Susan R. Redmond**
U.S. Attorney's Office
PO Box 197
Montgomery, AL 36101-0197
334-223-7280
Fax: 223-7560
Email: susan.redmond@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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Montgomery, AL 36101-0197
334-223-7280
Fax: 334-223-7560
Email: john.harmon@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/08/2005	 <u>1</u>	INDICTMENT as to Timothy Williams (1) count(s) 1, 2, 3. (sql,) (Entered: 09/14/2005)
09/08/2005	<u>3</u>	(Court only) Limits of Punishment as to Timothy Williams: (sql,) (Entered: 09/14/2005)
09/14/2005	 <u>2</u>	WARRANT Issued as to Timothy Williams. (sql,) (Entered: 09/14/2005)

09/15/2005	<u>4</u>	Case unsealed as to Timothy Williams per notice of arrest by USMS. (kcg,) (Entered: 09/15/2005)
09/15/2005	<u>5</u>	Arrest of Timothy Williams (sql,) (Entered: 09/16/2005)
09/15/2005	<u>4</u>	CJA 23 Financial Affidavit by Timothy Williams (sql,) (Entered: 09/16/2005)
09/15/2005	<u>6</u>	ORAL MOTION to Appoint Counsel by Timothy Williams. (sql,) (Entered: 09/16/2005)
09/15/2005	<u>6</u>	ORAL ORDER APPOINTING FEDERAL PUBLIC DEFENDER as to Timothy Williams Federal Defender for Timothy Williams appointed. . by Judge Delores R. Boyd on 9/15/2005. (sql,) (Entered: 09/16/2005)
09/15/2005	<u>5</u>	Minute Entry for proceedings held before Judge Delores R. Boyd :Initial Appearance as to Timothy Williams held on 9/15/2005 (Recording Time FTR: 3:15 - 3:27 pm.) (sql,) (Entered: 09/16/2005)
09/15/2005	<u>6</u>	ORDER Setting Conditions of Release as to Timothy Williams (1) \$25,000 non-surety . Signed by Judge Delores R. Boyd on 9/15/2005. (sql,) (Entered: 09/16/2005)
09/15/2005	<u>7</u>	non-surety Bond Entered as to Timothy Williams in amount of \$ \$25,000, (sql,) (Entered: 09/16/2005)
09/15/2005	<u>7</u>	Set/Reset Deadlines/Hearings as to Timothy Williams: Arraignment set for 9/21/2005 10:00 AM in Courtroom 5B before Honorable Susan Russ Walker. (sql,) (Entered: 09/16/2005)
09/15/2005	<u>10</u>	(Court only) Arrest Warrant Returned Executed in case as to Timothy Williams. Defendant arrested on 9/15/05. (kcg,) (Entered: 09/20/2005)
09/16/2005	<u>8</u>	ORDER as to Timothy Williams Arraignment set for 9/21/2005 10:00 AM in Courtroom 5B before Honorable Susan Russ Walker. If the defendant is in custody, the United States Marshal or the person having custody of the defendant shall produce the defendant for this proceeding. Signed by Judge Susan Russ Walker on 9/16/05. (kcg,) (Entered: 09/16/2005)
09/19/2005	<u>9</u>	NOTICE OF ATTORNEY APPEARANCE: Jennifer Anne Hart appearing for Timothy Williams (Hart, Jennifer) (Entered: 09/19/2005)
09/20/2005	<u>11</u>	NOTICE OF ATTORNEY APPEARANCE John T. Harmon appearing for USA. (Harmon, John) (Entered: 09/20/2005)
09/21/2005	<u>12</u>	WAIVER of Speedy Trial by Timothy Williams (jct,) (Entered: 09/21/2005)
09/21/2005	<u>13</u>	Minute Entry for proceedings held before Judge Susan Russ Walker :Arraignment held on 9/21/2005, Plea entered by Timothy Williams Not Guilty on counts 1,2,3. (Recording Time 12:00 12:01.) (jct,) (Entered: 09/21/2005)

09/26/2005	<u>14</u>	ORDER ON ARRAIGNMENT TO INCLUDE ORDER TO CONTINUE - Ends of Justice as to Timothy Williams. Pretrial Conference set for 10/17/2005 03:00 PM in Courtroom 5B before Honorable Susan Russ Walker. Jury Trial set for 6/5/2006 before Hon. Chief Judge Mark E. Fuller. Pretrial Motions due by 10/15/2005. Response to Motion due by 10/27/2005. Discovery due by 9/28/2005. Signed by Judge Susan Russ Walker on 9/26/05. (kcg,) (Entered: 09/26/2005)
10/17/2005	<u>15</u>	Minute Entry for proceedings held before Judge Susan Russ Walker :Pretrial Conference as to Timothy Williams held on 10/17/2005 (Recording Time 3:33 - 3:34.) (jct,) (Entered: 10/18/2005)
10/19/2005	<u>16</u>	PRETRIAL CONFERENCE ORDER as to Timothy Williams Jury Selection set for 6/5/2006 before Hon. Chief Judge Mark E. Fuller. Jury Trial (which is expected to last 1 day) is set for 6/5/2006 before Hon. Chief Judge Mark E. Fuller. Pretrial Conference set for 5/15/2006 03:00 PM in Courtroom 5B before Honorable Susan Russ Walker. Voir Dire due by 5/30/2006; Proposed Jury Instructions due by 5/30/2006; Motions in Limine due by 5/30/2006; Plea Agreement due by 5/30/2006. Signed by Judge Susan Russ Walker on 10/19/05. (kcg,) (Entered: 10/19/2005)
12/05/2005	<u>17</u>	MOTION for Release from Custody by USA as to Timothy Williams. (Attachments: # <u>1</u> Text of Proposed Order)(Redmond, Susan) (Entered: 12/05/2005)
12/06/2005	<u>18</u>	ORDER granting <u>17</u> Motion for Release from Custody as to Timothy Williams (1) to Secret Service Agents, etc., as further set out. Signed by Judge Susan Russ Walker on 12/6/05. (kcg,) (Entered: 12/06/2005)
01/11/2006	<u>19</u>	MOTION for Release from Custody by USA as to Timothy Williams. (Attachments: # <u>1</u> Text of Proposed Order)(Redmond, Susan) (Entered: 01/11/2006)
01/12/2006	<u>20</u>	ORDER granting <u>19</u> Motion for Release from Custody as to Timothy Williams (1) to Agents Halasz and/or Walters so that said Agents can take such prisoner into custody without the necessity of the presence of a Deputy U.S. Marshal. It is further ORDERED that Agents return said prisoner into the custody of the U.S. Marshals Service when they have finished with him. Signed by Judge Susan Russ Walker on 1/12/06. (kcg,) (Entered: 01/12/2006)
05/15/2006	<u>21</u>	Minute Entry for proceedings held before Judge Susan Russ Walker :Pretrial Conference as to Timothy Williams held on 5/15/2006 (Recording Time 3:15 - 3:16.) (jct,) (Entered: 05/15/2006)
05/25/2006	<u>22</u>	NOTICE OF INTENT TO CHANGE PLEA by Timothy Williams (Hart, Jennifer) (Entered: 05/25/2006)
05/25/2006	<u>23</u>	ORDER as to Timothy Williams re <u>22</u> Notice of Intent to Change Plea. Change of Plea Hearing set for 5/30/2006 03:00 PM in Courtroom 5B before Honorable Susan Russ Walker. The Clerk is directed to provide a

		court reporter for this proceeding. If the defendant is in custody, the United States Marshal or the person having custody of the defendant shall produce the defendant for the proceeding. Signed by Judge Susan Russ Walker on 5/25/06. (ws) (Entered: 05/25/2006)
05/26/2006	<u>24</u>	NOTICE OF ATTORNEY APPEARANCE: Kevin L. Butler appearing for Timothy Williams (Butler, Kevin) (Entered: 05/26/2006)
05/30/2006		ORAL MOTION to Continue Change of Plea Hearing by Timothy Williams. (jct,) (Entered: 05/30/2006)
05/30/2006		ORAL ORDER granting ORAL Motion to Continue Change of Plea Hearing as to Timothy Williams (1). Signed by Judge Susan Russ Walker on 5/30/06. (jct,) (Entered: 05/30/2006)
05/30/2006	<u>25</u>	Minute Entry for proceedings held before Judge Susan Russ Walker : Change of Plea Hearing NOT HELD; Oral Order granting Oral Motion to continue change of plea hearing. (Court Reporter Mitchell Reisner.) (jct,) Additional attachment(s) added on 5/30/2006 (jct,). (Entered: 05/30/2006)
05/31/2006		Set/Reset Hearings as to Timothy Williams: Change of Plea Hearing reset from 5/30/2006 to 5/31/2006 at 04:00 PM in Courtroom 5B before Honorable Susan Russ Walker. (jct,) (Entered: 05/31/2006)
05/31/2006	<u>26</u>	Consent to Enter Guilty Plea before U. S. Magistrate Judge as to Timothy Williams (jct,) (Entered: 06/01/2006)
05/31/2006	<u>27</u>	PLEA AGREEMENT as to Timothy Williams (jct,) (Entered: 06/01/2006)
05/31/2006		ORAL ORDER accepting guilty plea an adjudicating defendant guilty as to Counts 1 & 2 of the Indictment as to Timothy Williams . Signed by Judge Susan Russ Walker on 5/31/06. (jct,) (Entered: 06/01/2006)
05/31/2006	<u>28</u>	Minute Entry for proceedings held before Judge Susan Russ Walker :Change of Plea Hearing as to Timothy Williams held on 5/31/2006, Plea entered by Timothy Williams (1) Guilty Count 1,2. Count 3 to be dismissed at sentencing. Parties ORAL ARGUMENTS regarding release/custody of defendant. Court gives parties until 6/2/06 to file briefs/responses. (Court Reporter Risa Entrekin.) (jct,) (Entered: 06/01/2006)
06/01/2006		Terminate Deadlines and Hearings as to Timothy Williams: (kcg,) (Entered: 06/01/2006)
06/02/2006	<u>29</u>	NOTICE <i>Response to Motion for Release and Supporting Argument</i> by USA as to Timothy Williams (Redmond, Susan) (Entered: 06/02/2006)
06/03/2006	<u>30</u>	NOTICE OF ATTORNEY APPEARANCE: Christine A. Freeman appearing for Timothy Williams (Freeman, Christine) (Entered: 06/03/2006)

06/03/2006	<u>31</u>	MOTION for Leave to File <i>Memorandum</i> by Timothy Williams. (Freeman, Christine) (Entered: 06/03/2006)
06/03/2006	<u>32</u>	BRIEF/RESPONSE in Support by Timothy Williams re <u>31</u> MOTION for Leave to File <i>Memorandum per court's oral order of May 31</i> (Freeman, Christine) (Entered: 06/03/2006)
06/05/2006	<u>33</u>	MOTION for Forfeiture of Property <i>Preliminary Order of Forfeiture</i> by USA as to Timothy Williams. (Attachments: # <u>1</u> Text of Proposed Order Preliminary Order of Forfeiture)(Harmon, John) (Entered: 06/05/2006)
06/07/2006	<u>34</u>	ORDER granting <u>33</u> Motion for Forfeiture of Property as to Timothy Williams (1). Signed by Judge Mark E. Fuller on 6/7/2006. (sql,) (Entered: 06/07/2006)
06/08/2006	<u>35</u>	ORDER as to Timothy Williams denying Defendant's Oral Motion for Release Pending Sentencing . Signed by Judge Susan Russ Walker on 6/8/06. (ws) (Entered: 06/08/2006)
06/12/2006	<u>36</u>	ORDER granting <u>31</u> Motion for Leave to File as to Timothy Williams (1). Signed by Judge Susan Russ Walker on 6/12/2006. (sql,) (Entered: 06/12/2006)
06/13/2006	<u>37</u>	ORDER as to Timothy Williams Sentencing set for 8/17/2006 09:00 AM in Courtroom 2A before Hon. Chief Judge Mark E. Fuller.. Signed by Judge Mark E. Fuller on 6/13/2006. (sql,) (Entered: 06/13/2006)
06/14/2006	<u>38</u>	TRANSCRIPT of Proceedings (PDF available for court use only) as to Timothy Williams held on 5/31/2006 before Judge Susan Walker. Court Reporter: Risa Entrekin. (sql,) (Entered: 06/14/2006)
07/14/2006	<u>39</u>	ORDER as to Timothy Williams that Sentencing set for 8/17/2006 is rescheduled for 8/16/2006 09:00 AM in Courtroom 2A before Hon. Chief Judge Mark E. Fuller. Signed by Judge Mark E. Fuller on 7/14/06. (kcg,) (Entered: 07/14/2006)
07/17/2006	<u>40</u>	MOTION to Withdraw as Attorney by Jennifer A. Hart. by Timothy Williams. (Hart, Jennifer) (Entered: 07/17/2006)
07/18/2006	<u>41</u>	NOTICE OF ATTORNEY APPEARANCE: Tiffany Bullard McCord appearing for Timothy Williams (McCord, Tiffany) (Entered: 07/18/2006)
07/18/2006	<u>42</u>	STAMPED ORDER granting <u>40</u> Motion to Withdraw as Attorney by Jennifer A. Hart as to Timothy Williams (1) and appointing CJA Panel Attorney Tiffany McCord, as further set out. Signed by Judge Susan Russ Walker on 7/18/06. (kcg,) (Entered: 07/18/2006)
07/26/2006	<u>43</u>	CJA 20 as to Timothy Williams: Appointment of Attorney Tiffany Bullard McCord for Timothy Williams. . Signed by Judge Susan Russ Walker on 7/24/06. (ws,) (Entered: 07/26/2006)
07/27/2006	<u>44</u>	MOTION for Downward Departure by USA as to Timothy Williams. (Redmond, Susan) (Entered: 07/27/2006)

07/27/2006	45	MOTION for Reduction in Criminal Offense Level for Acceptance of Responsibility by USA as to Timothy Williams. (Redmond, Susan) (Entered: 07/27/2006)
08/16/2006	46	Minute Entry for proceedings held before Judge Mark E. Fuller :Sentencing held on 8/16/2006 as to Timothy Williams (1) (Court Reporter James R. Dickens.) (kcg,) (Entered: 08/18/2006)
08/16/2006		ORAL ORDER as to Timothy Williams GRANTING 45 MOTION for Reduction in Criminal Offense Level for Acceptance of Responsibility filed by USA and GRANTING 44 MOTION for Downward Departure filed by USA . Signed by Judge Mark E. Fuller on 8/16/06. (kcg,) (Entered: 08/18/2006)
08/16/2006		ORAL MOTION to Dismiss Count 3 of the Indictment by USA as to Timothy Williams. (kcg,) (Entered: 08/18/2006)
08/16/2006		ORAL ORDER as to Timothy Williams GRANTING ORAL MOTION to Dismiss Count 3 of the Indictment filed by USA . Signed by Judge Mark E. Fuller on 8/16/06. (kcg,) (Entered: 08/18/2006)
08/23/2006	47	JUDGMENT as to Timothy Williams (1), Count(s) 1, 2, 68 Mos Imp consisting of 8 Mos on Ct 1 and 60 Mos on Ct 2 to be served CS to the term on Ct 1; 3 Yrs Sup Rel consisting of 3 Yrs on Cts 1 and 2 to run CC; \$200 SA; Count(s) 3, Dismissed by Motion of the Government . Signed by Judge Mark E. Fuller on 8/23/06. (kcg,) (Entered: 08/23/2006)
08/23/2006		(Court only) ***Case Terminated as to Timothy Williams (kcg,) (Entered: 08/23/2006)
08/23/2006	48	PRESENTENCE INVESTIGATION REPORT (Sealed) as to Timothy Williams (kcg,) (Entered: 08/23/2006)
11/09/2006	49	MOTION to Add Publication Dates to Record by USA as to Timothy Williams. (Attachments: # 1 Publication of Notice of Forfeiture)(Harmon, John) (Entered: 11/09/2006)
12/15/2006	50	Judgment Returned Executed as to Timothy Williams on 11/16/2006. (sql,) (Entered: 12/15/2006)
01/09/2007	51	MOTION for Forfeiture of Property (<i>Motion for Final Order of Forfeiture</i>) by USA as to Timothy Williams. (Attachments: # 1 Text of Proposed Order)(Harmon, John) (Entered: 01/09/2007)
01/10/2007	52	ORDER denying 49 Motion to Add Publication Dates to Record as to Timothy Williams (1). Signed by Judge Mark E. Fuller on 1/10/07. (kcg,) (Entered: 01/10/2007)
01/10/2007	53	MOTION Renewed Motion to Add Publication Dates to Record by USA as to Timothy Williams. (Attachments: # 1 Notice of Publication of Criminal Forfeiture)(Harmon, John) (Entered: 01/10/2007)

01/16/2007	<u>54</u>	ORDER granting <u>53</u> Renewed Motion to Add Publication Dates to Record as to Timothy Williams (1). Signed by Judge Mark E. Fuller on 1/16/07. (kcg,) (Entered: 01/16/2007)
01/17/2007	<u>55</u>	FINAL ORDER OF FORFEITURE as to Timothy Williams. It is hereby ORDERED, ADJUDGED AND DECREED as follow: 1. The Motion for a Final Order of Forfeiture (Doc. #51) is GRANTED. 2. The following firearms are hereby forfeited to the United States pursuant to Title 18, U.S. Code, Section 924 and Title 28, U.S. Code, Section 2461(c): One Ruger, Model P89, 9mm pistol, bearing serial number 311-98162; One Rossi,.38 caliber revolver, bearing serial number W216081; One Strum Ruger,.223 caliber rifle, bearing serial number 195-57105; and, One Norinco, Model SKS, bearing serial number 01125 or 1701125 and ammunition, as further set out. Signed by Judge Mark E. Fuller on 1/17/07. (kcg,) (Entered: 01/17/2007)
01/17/2007		(Court only) ***Motions terminated as to Timothy Williams: <u>51</u> MOTION for Forfeiture of Property (<i>Motion for Final Order of Forfeiture</i>) filed by USA,. (kcg,) (Entered: 01/17/2007)

UNITED STATES DISTRICT COURT

MIDDLE

District of

ALABAMA

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

TIMOTHY WILLIAMS

Case Number: 2:05CR216-MEF

USM Number: 11778-002

Tiffany Bullard McCord

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 and 2 of the Indictment on 5/31/2006☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21:841(a)(1)	Marijuana, Sell, Distribute, or Dispense	6/13/2005	1
18:924(c)(1)(A)	Violent Crime/Drugs/Machine Gun	6/13/2005	2

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☒ Count(s) 3 of the Indictment X is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

August 16, 2006

Date of Imposition of Judgment

Signature of Judge

MARK E. FULLER, CHIEF U.S. DISTRICT JUDGE

Name and Title of Judge

23 August 2006

Date

DEFENDANT: **TIMOTHY WILLIAMS**
CASE NUMBER: **2:05CR216-MEF****IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

Sixty eight (68) months. This term consists of 8 months on Count 1 and 60 months on Count 2 to be served consecutively to the term on Count 1.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHALBy _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **TIMOTHY WILLIAMS**
CASE NUMBER: **2:05CR216-MEF**

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

Three (3) years. This term consists of 3 years on Counts 1 and 2, all such terms to run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: **TIMOTHY WILLIAMS**
CASE NUMBER: **2:05CR216-MEF**

SPECIAL CONDITIONS OF SUPERVISION

Defendant shall participate in drug testing and treatment. Defendant shall contribute to the cost of any treatment based on ability to pay and availability of third party payments.

Defendant shall submit to a search of his person, residence, office or vehicle pursuant to the search policy of this Court.

Defendant shall not obtain new credit.

DEFENDANT: **TIMOTHY WILLIAMS**CASE NUMBER: **2:05CR216-MEF****CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 200.00	\$ 0	\$ 0

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ _____	\$ _____
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: **TIMOTHY WILLIAMS**
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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 200.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

Criminal monetary payments shall be made payable to the Clerk, U.S. District Court, Middle District of Alabama, P.O. Box 711, Montgomery, AL 36101.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

One Ruger, Model P89, 9mm pistol, bearing serial number 311-98162; One Rossi, .38 caliber revolver, bearing serial number W216081; One Strum Ruger, .223 caliber rifle, bearing serial number 195-57105; and, One Norinco, Model SKS, bearing serial number 01125 or 1701125 and ammunition.